

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

VICTORIA FIELDS

vs.

RUFF RYDERS LIFESTYLES CORP,
ET AL.

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CASE NO. 5:09-CV-103-DF-CE

ORDER

The above-titled and numbered civil action was referred to United States Magistrate Judge Chad Everingham pursuant to 28 U.S.C. § 636. The Magistrate Judge has presented two reports and recommendations for consideration. The first report and recommendation (Dkt. No. 36) recommends that the court deny the plaintiff Victoria Fields's motion for default judgment (Dkt. No. 19), because Ms. Fields did not properly serve the summons and complaint on the defendants. The second report and recommendation (Dkt. No. 38) ordered Ms. Fields to show cause why her case should be dismissed for failure to serve the defendants within 120 days of her complaint. If the plaintiff could not show good cause, Judge Everingham recommended dismissing this case, *sua sponte*, without prejudice.

On September 13, 2010, the plaintiff responded to the show cause order and objected to the reports and recommendations (Dkt. No. 39). Ms. Fields states the summons for each of the defendants were returned signed by their registered agent in New York. But the registered agent merely signed the certified mail return card; none of the defendants answered or otherwise responded.

The court is of the opinion that the conclusions of the Magistrate Judge are correct. Therefore, the court adopts, in its entirety, the report of the United States Magistrate Judge as the

conclusions of this court. Accordingly, the plaintiff's motion for default judgment is DENIED.
Likewise, the court DISMISSES this case without prejudice to refiling.

SIGNED this 20th day of September, 2010.

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE